STATE OF MICHIGAN

DEPARTMENT OF LABOR & ECONOMIC GROWTH

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX
Petitioner **File No. 90392-001-SF**
v

Blue Cross Blue Shield of Michigan
Respondent
_____/

Issued and entered
this 18th day of August 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On June 13, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of the Office of Financial and Insurance Regulation under Public Act No. 495 of 2006, MCL 550.1951 *et seq*. The Commissioner reviewed the request and accepted it on June 20, 2008.

Under Section 2(2) of Act 495, MCL 550.1952(2), the Commissioner conducts this external review as though the Petitioner was a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq*.

The Commissioner notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on July 1, 2008.

The Petitioner is enrolled for health coverage through the Michigan Public School Employees Retirement System (MPSERS), a self-funded group. BCBSM administers the plan. The issue in this external review can be decided by a contractual analysis. The contract involved

here is the MPSERS/BCBSM *Your Benefit Guide* (the guide), the document that describes the Petitioner's coverage. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II
FACTUAL BACKGROUND

The Petitioner had problems with her temporomandibular joint. Her dentist suggested that she have a CT scan of her jaw. She was referred to Dr. XXXXX in whose office the CT scan was performed on January 24, 2008. The CT scan images were evaluated by Dr. XXXXX, an oral and maxillofacial radiologist. Dr. XXXXXs office charged $480.00 for the CT scan. BCBSM denied payment.

The Petitioner appealed BCBSM's denial. BCBSM held a managerial-level conference on May 29, 2008, and issued a final adverse determination dated June 5, 2008.

III
ISSUE

Is BCBSM required to pay for the Petitioner's January 24, 2008 CT scan?

IV
ANALYSIS

Petitioner's Argument

The Petitioner relates that, prior to having her CT scan, she obtained the procedure code for the test. She took this number to the BCBSM walk-in office in Traverse City. She was told the test would be covered if performed by a participating provider. Dr. XXXXX is a participating provider. The Petitioner says she was assured that the CT scan would be covered. The Petitioner paid for the CT scan. She was very dismayed when reimbursement for this procedure was denied.

BCBSM indicated that the CT scan was not covered because Dr. XXXXX was a dentist and not an MD or DO. The Petitioner says she was never previously informed of this requirement. The Petitioner says she located an oral radiologist at XXXXX in XXXXX who is an MD. He charges $1,500.00 for a CT scan. This compares to the $480.00 charged by Dr. Lints.

The Petitioner believes that BCBSM should be required to pay for her CT scan since it misled her to believe that it was a covered benefit.

BCBSM's Argument

In its June 5, 2008 final adverse determination, BCBSM stated:

> Although your coverage through the Michigan Public School Retirement System reimburses CAT scans, they are subject to limitations. In this instance the scan billed is only payable when performed by an MD or DO. It is not payable when performed by your dentist as in this case.

In its position paper submitted to the Commissioner for this review, BCBSM stated:

> this type of service is not a covered benefit when rendered by a dentist.
>
> * * *
>
> Under the terms of the MPSERS Benefit Guide, CT scans are payable only when provided by a physician, MD, or a DO. In [Petitioner's] case the requirements were not met, because her CT scan services were rendered and billed by a dentist in private practice. Under this health plan dental services are limited to the initial treatment for injuries to the jaw, sound natural teeth, mouth or face. Therefore, [Petitioner's] CT scan service was denied appropriately.

Commissioner's Review

The relevant portion of the Benefit Guide is found on page 31 which describes coverage available for "other diagnostic services:"

> When medically necessary and performed in an approved location, the plan covers diagnostic services including:
>
> - CAT scans of the head and body

The Guide indicates that CT scans are a covered benefit when provided in an approved location. BCBSM did not take issue with the location of the CT scan. The Guide does not specify what type of medical professional must perform the test in order to be covered. Therefore, BCBSM's assertion that CT scans must be performed by an MD or DO in order to be a covered benefit is not supported by the Benefit Guide.

In its position paper, BCBSM also stated that dental services are limited to the initial treatment of injuries. This is incorrect. The Benefit Guide states that, in addition to treatment of injuries, coverage is provided for "irreversible surgery directly to the temporomandibular joint, X-rays (including MRIs) and arthrocenteses (injections), regardless of the cause of the jaw-joint disorder."

Because the reason BCBSM cited for denying petitioner's claim is not found in the Benefit Guide and because TMJ treatment is a covered benefit, BCBSM's claim denial was improper.

V
ORDER

BCBSM's final adverse determination of June 5, 2008, is reversed. BCBSM is required to provide coverage for the Petitioner's January 24, 2008 CT scan.

This is a final decision of an administrative agency. Any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. See MCL 550.1915(1), made applicable by MCL 550.1952(2).

A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.